



UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

MARK E. FELGER (MF9985)
JERROLD N. POSLUSNY, JR. (JP7140)
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Attorneys for the Debtors

In re:

SHAPES/ARCH HOLDINGS L.L.C., et al.,

Debtors.

Case No. 08-14631(GMB)

Judge: Gloria M. Burns

Chapter: 11

**CONSENT ORDER RESOLVING MOTION TO RECLASSIFY
ADMINISTRATIVE CLAIM OF EULER HERMES ACI, AS ASSIGNEE
OF RUSAL AMERICA CORP. TO GENERAL UNSECURED CLAIM**

The relief set forth on the following pages, numbered two (2) through four (4), is
hereby **ORDERED**.

DATED: 3/11/2009



Honorable Gloria M. Burns
United States Bankruptcy Court Judge

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Case No. 08-14631 (GMB)

Consent Order Resolving Motion to Reclassify Administrative Claim of Euler Hermes ACI, as Assignee of Rusal America Corp. to General Unsecured Claim

This Consent Order (the “Consent Order”) is entered into, by and between the above captioned debtors and debtors in possession (collectively, the “Debtors”), and Euler Hermes, ACI (“Euler”), as assignee of Rusal America Corp. (“Rusal”) (the Debtors and Euler being hereinafter referred to collectively as the “Parties”) to resolve the *Debtors’ Objection Seeking Order to Reclassify Administrative Claim of Euler Hermes ACI, as Assignee of Rusal America Corp. to General Unsecured Claim* [Docket No. 547] (the “Motion”)¹ pursuant to 11 U.S.C. § 503(b)(9).

WHEREAS, the Debtors filed their respective voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) on March 16, 2008 (the “Petition Date”);

WHEREAS, the Debtors’ Third Amended Joint Chapter 11 Plan of Reorganization, as modified (the “Plan”) was confirmed as of July 22, 2008, and became effective on August 8, 2008 (the “Effective Date”);

WHEREAS, prior to the Petition Date, Shapes ordered and received goods from Rusal.

WHEREAS, on May 5, 2008, Euler, as *agent* of Rusal, filed a proof of claim (claim no. 407) which asserted a claim of \$5,285,371.04 and reserved Rusal’s rights under 11 U.S.C. § 503(b)(9);

WHEREAS, on June 19, 2008, Euler, as *assignee* of Rusal, filed a proof of claim (claim no. 773) which asserted a total claim of \$5,285,371.04, of which Euler asserted that \$959,059.54 is entitled to administrative priority pursuant to 11 U.S.C. § 503(b)(9) (the “503(b)(9) Claim”)

¹ Unless otherwise defined herein, all capitalized terms shall have the same meanings ascribed to them in the Motion.

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for goods received by Shapes within twenty (20) days prior to the Petition Date for which Euler asserts Shapes has not made payment;

WHEREAS, the Debtors filed the Motion on July 21, 2008, asserting that the 503(b)(9) Claim was paid or otherwise satisfied in full;

WHEREAS, Euler has objected to the Motion; and

WHEREAS, the Parties, in an effort to avoid the costs and risks of litigating the Motion further, desire to settle the Motion as set forth herein;

NOW THEREFORE, in consideration of the mutual covenants and promises set forth herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties hereby stipulate and agree as follows:

1. The foregoing whereas clauses are incorporated herein by reference.
2. The Motion is resolved as set forth herein.
3. The 503(b)(9) Claim is hereby allowed as an administrative expense claim in the amount of \$135,000, which shall be paid by the Debtors to Euler as follows: (a) \$100,000 within ten (10) days of entry of this Order, and (b) \$35,000 within forty (40) days of entry of this Order.
4. Rusal's claim no. 407 is hereby expunged and disallowed as duplicative of claim no. 773.
5. Euler's claim no. 773 is hereby allowed as a general, unsecured, Class 10 claim in the amount of \$5,150,371.04 (the "Allowed Class 10 Claim") with a reservation of rights solely in connection with a challenge, if any, pursuant to 11 U.S.C. § 502(d), and shall be paid to the

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extent and at the time that allowed Class 10 claims are paid under the Plan. Euler reserves its right to contest on any basis a challenge to the Allowed Class 10 Claim pursuant to 11 U.S.C § 502(d).

6. The Parties, and the Class 10 Liquidation Trustee, each retain all of their respective rights, arguments and defenses with respect to Avoidance Actions (as defined in the Plan), if any.

7. This Court shall retain jurisdiction over any and all matters arising from or related to the implementation or interpretation of this Order.

The following hereby consent to the form, language and content as set forth in this Consent Order:

COZEN O'CONNOR, P.C.

By: /s/ Jerrold N. Poslusny, Jr.
Mark E. Felger, Esquire
Jerrold N. Poslusny, Jr., Esquire
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LOWENSTEIN SANDLER, P.C.

By: /s/ Michael Etkin
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Roseland, NJ 07068
Counsel for Euler Hermes ACI

CERTIFICATE OF NOTICE

District/off: 0312-1
Case: 08-14631

User: dfitzger
Form ID: pdf903

Page 1 of 1
Total Served: 1

Date Rcvd: Mar 12, 2009

The following entities were served by first class mail on Mar 14, 2009.
db +Shapes/Arch Holdings L.L.C., 9000 River Road, Delair, NJ 08110-3204

The following entities were served by electronic transmission.
NONE.

TOTAL: 0

***** BYPASSED RECIPIENTS *****

NONE.

TOTAL: 0

Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP.
USPS regulations require that automation-compatible mail display the correct ZIP.

I, Joseph Speetjens, declare under the penalty of perjury that I have served the attached document on the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 9): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Mar 14, 2009

Signature:

A handwritten signature in black ink, reading "Joseph Speetjens", written over a horizontal line.